

REMARKS

I. SUMMARY OF THE OFFICE ACTION

All previous rejections have been withdrawn. The Examiner has issued a new obviousness rejection over Cook U.S. 5,725,873 in view of Ohkaru et al.

II. SUMMARY OF CLAIMS

Claims 26 - 31, and 36. - 42. are canceled by this amendment. Claims 1 - 5 and 12 - 19, 22 - 25 and 32 - 35 are pending.

Claims 1, 16, 25, and 32 are the independent claims.

III. REJECTION OF CLAIMS AS INDEFINITE UNDER 35 USC 112, SECOND PARAGRAPH

The current office action rejects claims 3, 12, 34 and 35 under the second paragraph 35 USC 112, as being indefinite for failing to particularly point out and distinctly claim subject matter. These claims have been amended substantially as suggested by the Examiner.

Claim 3 has been clarified to recite that the “antibody is in a wet state...” Claim 12 has been amended to indicate that the liposome is formed prior to the feeding step. Claim 34 has been amended to recite “wherein said liposome-encapsulated anti-lipase antibody is freeze dried.” Claim 35 now states “wherein liposome-encapsulated anti-lipase antibody is mixed with food for said animal.”

IV. OBVIOUSNESS REJECTIONS BASED UPON COOK AND OHKARU ET AL.

The Examiner rejects claim 1-5 and 12-19 and 22-42 under 35 USC 103 as obvious based upon Cook, US 5,725,873, in view of the Ohkaru et al., Clin Chim. Acta, 182 (3): 295-300 (1989) (Abstract).

The Examiner asserts that Cook discloses encapsulating an antibody, CCK. However, Cook is merely coating the antibody complex with fat, which is not an “encapsulation” process. Pelleted feed is often coated with fat to increase its fat/energy content, which is simply called “fat coating.” The fat

soaks into the entire feed pellet and does not encapsulate the feed pellet to form a “liposome,” as claimed. A liposome is a spherical vesicle composed of a bilayer membrane, e.g., a phospholipid bilayer, and thus requires forming a precise molecular structure. A person of skill in the feed industry would not think of “fat coating” as encapsulation to form a liposome, nor would he expect it to protect the internal core. On the other hand, the liposome of the present invention actually encapsulates the antibody in a bilayer membrane, not just a coating of fat. Furthermore, the antibody of Cook (i.e., CCK) is not related to the antibody of the present invention. CCK is not an anti-lipase antibody.

Ohkaru et al. discloses two monoclonal antibodies used in either an immunosorbent enzyme assay or in a competitive binding enzyme immunoassay for human serum pancreatic lipase. But this article does not describe *feeding* such antibodies to an animal, or inhibiting fat absorption in any way. In fact Ohkaru et al. reported that one of the disclosed antibodies did not even inhibit lipase.

As now presented, the claims revert to language explaining the purpose of the method, i.e., decreasing fat absorption in mammals. This language makes it clear that maintaining the rejection would require hindsight to reconstruction, because Cook provides no motivation to administer antibodies for the purpose of inhibiting fat absorption or forming a liposome to encapsulate the antibodies. Rather, Cook's actual purpose was to improve feed conversion, which is essentially opposite to the effect desired here.

Ohkaru et al. merely disclosed the existence of one anti-lipase antibody, that was used in an *in vitro* assay, but that information alone would not have supplied any motivation to administer such an antibody, in liposome encapsulated form, to decrease fat absorption in mammals as claimed. Accordingly, the present invention would not have been obvious within the meaning of 35 USC 103.

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DATE

Respectfully submitted,

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